

Message Text

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ACTION ARA-14

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SUBJECT: AMERICAN FIRM DEFAULTING ON ROAD PROJECT

SUMMARY: AN AMERICAN CONSTRUCTION COMPANY IS DEFAULTING ON AN IDB FINANCED 17.3 MILLION DOLLAR ROAD CONSTRUCTION CONTRACT IN SOUTHWEST HAITI. BESET BY MANAGMENT PROBLEMS AND APPROXIMATELY 10 MONTHS BEHIND IN ITS WORK, SANGAMO-BARTER STOPPED WORK AUGUST 1 DEMANDING CONTRACT RENEGOTIATION. IDB AND GOH OFFICIALS HAVE BEEN NEGOTIATING WITH BARTER SINCE THEN, HAVE ACCEDED TO 13 OF THE 14 DEMANDS, BUT BARTER HAS REPORTEDLY PULLED OUT BECAUSE THE GOH WOULD NOT ACCEPT THE FINAL DEMAND, THE FIRING OF THE RESIDENT SUPERVISING ENGINEER. BARTER APPARENTLY ORDERED HIS EMPLOYEES TO LEAVE HAITI ON AUGUST 12 AND TOLD THE GOH/IDB NEGOTIATORS THAT HE PLANS TO GO TO WASHINGTON ON AUGUST 16 TO QUOTE TURN ON THE FAN ON CORRUPTION IN HAITI UNQUOTE. END SUMMARY.

2. SANGAMO-BARTER, A JOINT VENTURE OF TWO AMERICAN CONSTRUCTION COMPANIES, SIGNED A CONTRACT WITH THE GOVERNMENT OF HAITI AND THE INTER-AMERICAN DEVELOPMENT BANK IN DECEMBER 1976 TO BUILD 59 KILOMETERS OF PAVED HIGHWAY BETWEEN AQUIN AND LES CAYES IN SOUTHWEST HAITI. THERE WAS SOME CONCERN AT THE TIME THAT SANGAMO-BARTER MAY HAVE BEEN QUOTE BUYING IN UNQUOTE
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WITH THEIR 17.3 MILLION DOLLAR TENDER AS IT WAS CONSIDERABLY LESS THAN THE TENDERS OF FOREIGN CONTRACTORS ALREADY ESTABLISHED IN HAITI. SIMILARLY, THERE WAS SOME CONCERN BECAUSE SAM BARTER, THE OPERATING PARTNER IN THE JOINT VENTURE, HAD NEVER WORKED OUTSIDE THE UNITED STATES. THE GOH ISSUED ITS MOBILIZATION ORDER ON JANUARY 3, 1977 AND WORK WAS SCHEDULED TO BE FINISHED BY JANUARY 3, 1979.

3. BARTER HAD A NUMBER OF PROBLEMS CARRYING OUT THE CONTRACT INCLUDING ROAD DESIGN, DESCRIBED BY LOCAL EXPERTS AS INADEQUATE; SLOW PAYMENTS BY THE GOH; DIFFICULTIES WITH PROJECT MANAGERS (THERE HAVE BEEN THREE); APPARENTLY CAPRICIOUS PROJECT SUPERVISION BY GOH ENGINEERS; HEAVY AND UNSEASONAL RAINS WHICH SLOWED CONSTRUCTION IN LES CAYES PLAIN; AND POOR COMMUNICATIONS WITH THE GOH. WITH RESPECT TO THE LATTER, BARTER DOESN'T SPEAK FRENCH OR CREOLE AND HIS LOUD PERSONAL STYLE HAS DEEPLY OFFENDED HAITIAN OFFICIALS. IN THESE CIRCUMSTANCES, SANGAMO-BARTER FELL APPROXIMATELY 10 MONTHS BEHIND ITS WORK SCHEDULE, HAITIAN OFFICIALS BECAME INCREASINGLY CONCERNED, THE GOH BEGAN TO INVOKE PENALTY CLAUSES IN THE CONTRACT AND PAYMENTS AMOUNTING TO 400,000 DOLLARS WERE HELD IN ESCROW.

4. ON AUGUST 1, SANGAMO-BARTER STOPPED WORK AND CALLED FOR CONTRACT RENEGOTIATIONS, CITING FORCE MAJEURE AND THE GOH'S EXCESSIVELY SLOW PAYMENTS RECORD. HE SENT A LONG LETTER WITH 14 DEMANDS TO THE GOH. THE BARTER DEMANDS INCLUDED A LONGER WORK SCHEDULE, INCREASED PAYMENT FOR ADDITIONAL WORK IMPOSED BY INADEQUATE DESIGN ENGINEERING AND CANCELLATION OF THE PENALTIES. THE GOH AND THE IDB HAVE MADE EVERY EFFORT TO ACCOMMODATE BARTER, HAVE DEDICATED NEARLY TWO WEEKS TO NEGOTIATIONS WITH HIM AND BY AUGUST 11 THEY HAD ACCEDED TO ALL CONDITIONS INCLUDING EXTENDED WORK SCHEDULE, INCREASED PAYMENT, CANCELING THE PENALTIES BUT BALKED AT FIRING THEIR SUPERVISORY ENGINEER.

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INDEED, THEY PROBABLY WOULD REPLACE THE ENGINEER IF BARTER WOULD DROP IT AS A FORMAL ISSUE. BARTER TOLD GOH AND THE IDB THAT THE CONDITION WAS A SINE QUA NON FOR CONTINUING HIS WORK. SINCE THE GOH REFUSED, BARTER ANNOUNCED HE WAS PULLING OUT. IF HE DOES SO THE GOH AND THE IDB ARE PREPARED TO EXERCISE THE PENALTY CLAUSES OF THE CONTRACT AND CALL HIS PERFORMANCE BOND.

5. ALTHOUGH PULLING OUT AT THIS STAGE IN ROAD CONSTRUCTION IS SERIOUS ENOUGH, BARTER APPARENTLY INTENDS TO DO SO IN STYLE. HE HAS SAID HE PLANNED TO GO TO SENATOR STEVENSON ON WEDNESDAY, AUGUST 16, TO QUOTE TURN ON THE FAN UNQUOTE: A) TO EXPOSE ALL THE IRREGULARITIES HE ALLEGES HAVE BEEN PERPETRATED BY THE GOH B) TO CURTAIL FUTURE ECONOMIC ASSISTANCE TO HAITI. THE IDB AND THE GOH ARE STANDING BY FOR THE BLAST.

6. THE MISSION HAS NOT BEEN INVOLVED IN THIS NEGOTIATION AND CANNOT COMMENT WITH ANY PRECISION ON THE VARIOUS CLAIMS AND COUNTER-CLAIMS. THE GOH AND THE IDB, BECAUSE OF THE DESIRE TO GET THE ROAD COMPLETED AND BECAUSE OF THE COSTLINESS OF HAVING TO GET ANOTHER CONTRACTOR TO REPLACE BARTER, HAVE BENT OVER BACKWARDS TO RESOLVE THE ISSUES. WE DO NOT KNOW WHY BARTER

COULD NOT COME TO AN AGREEMENT IN THESE CIRCUMSTANCES OR EVEN
WHETHER HE WANTED TO FINISH THE CONTRACT. WE ANTICIPATE THE
HAITIAN MEDIA WILL REFLECT RESENTMENT AT THIS LATEST EVENT IN
THE COSTLY SAGA OF ROAD BUILDING IN HAITI.
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